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Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Collins, E. (2012). Migdal goes Canadian: deconstructing the 'executive' in the study of Canadian federalism. *Federal Governance*, 9(1), 1-8. <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-342356>

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MIGDAL GOES CANADIAN: *Deconstructing the 'Executive' in the Study of Canadian Federalism*

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Abstract: Over the 20th century the field of comparative politics was subject to a debate about the proper way of theorizing the state. Society-centric scholars initially put the state in the background, while later state-centric authors brought the state back in, making it the focal point of their analysis. Dissatisfied with both, Joel S Migdal published *State in Society* (2001), which advocated for a rethinking of the study of the state. Migdal argued that the state must be considered as a fragmented actor among many others in society. This theory of fragmentation of the state would seem to be naturally applicable to the study of federalism. Yet this has not been the case. This paper argues that Migdal's approach would be a useful addition to the study of federalism and intergovernmental relations, using Canada as a test case. A brief review of some key literature first places Migdal's approach in terms of the broader debate between 'societalists' and 'statists'. Migdal's approach is then applied to a particular facet of the literature on Canadian federalism: executive federalism. The paper concludes that although federalism in Canada has been studied extensively, Migdal's notion of 'state in society' would provide us a useful way to further our understanding of federalism and intergovernmental relations.

Keywords: Migdal, Canada, executive federalism

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Introduction

Since the end of World War II, comparative political scientists have changed their opinions on the role of the state in the discipline. Initially, in reaction to the legalistic examinations of constitutions which had characterized political science prior to the war, social scientists examined not the state, but society. The state was considered part of the background, and less as an active participant. A counter-reaction to this paradigm occurred in the 1970s and 1980s, as neo-institutional statisticians sought to 'bring the state back in'. This caused some debate between societalists (the first wave) and statisticians. Dissatisfied with both, Joel S Migdal published *State in Society* (2001), which advocated for a rethinking of the study of the state. Migdal argued that the state must be considered as a fragmented actor among many others in society.

Canadian federalism is a good test case for many of these theories. The federal nature of the country makes the state versus society debate particularly relevant. This has been tacitly reflected in the literature on Canadian federalism. Both the societalist and particularly the statist points of view have been used to study the topic. However, Migdal's idea of the state-in-society has not yet been applied to Canada, and would make a valuable contribution, particularly to understanding the *process* of federalism, and the functioning of intergovernmental relations.

This article argues that there is a disjuncture in the Canadian literature on federalism. While the general concept of executive federalism portrays a largely state-centric situation, the specific policy literature is much more nuanced. Migdal's approach could help rectify this imbalance. Thus, the application of Migdal's reconceptualization of the state would be a valuable addition to the study of federalism in Canada. This will be demonstrated in two parts. The first will review the debate between pluralists and statisticians, and provide a detailed examination of Migdal's idea. The second will focus on the strengths, weaknesses, and opportunities for further study of 'executive federalism'.

State or Society?

Before the Second World War, political science tended to concentrate on the issues that had been preoccupations for the preceding centuries or even millennia. A legalistic focus on constitutions was not far removed from what Aristotle had studied 2500 years prior. The state was what Weber had defined it to be in his remarkably enduring definition: "A state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory" (quoted in Migdal 2001: 13). During the 1950s and 1960s, social scientists focused less on the state as a subject, treating it instead as a part of the broader social system (ibid: 4). Easton (1965: 21), for instance, treated political life as an open and adaptive system, one through which "values [were] authoritatively allocated for a society". States in this view are organizations which

mechanically filter and respond to demands. The state is a 'black box' in which inputs are turned into outputs.

States are treated as interchangeable, and are reflections of the forces at work in their environment (Migdal 1997: 214). Indeed, this model of the state reflected a broader belief in a unilinear theory of development. Going back to the works of Weber and Durkeim, this perspective sees the various societies in the world as being somewhere on a spectrum of development. This understanding was influential until the 1960s. Thus, early works on the third world posited that those states would eventually follow in the footsteps of Europe (Janos 1986: 48).

Unilinear theories of development gradually fell out of fashion. As events progressed, it became evident that even if African and Asian states were going to experience significant development (which was increasingly unsure), they were not simply going to follow the same path as Western Europe. The puzzle of development led to the society focused works of Almond and Verba. In *The Civic Culture* (1963), they attempted to explain the puzzle of differential development through the existence of different civic cultures. Cultural theorists like Almond and Verba "emphasized values and historically determined cultural template [...] [in an attempt] to address the gap separating the optimistic expectations of development theory from contemporary political realities" (Remmer 1997: 40).

These explanations for differential development left little room for the state. As before, the state was still considered to be a passive actor in these theories, subject either to prevailing cultural norms or economic trends. Samuel Huntington's ground-breaking 1965 article "Political Development and Political Decay" was notable for two reasons. First, it argued that development was not inevitable. In fact, modernization could produce political decay (contrary to what was then commonly assumed). Second, Huntington (1965: 393; emphasis added) argued that "it is useful for many purposes to define political development as the institutionalization of *political organizations and procedure*". Huntington saw the state as the locus for change (Migdal 2001: 7). Despite Huntington's then iconoclastic analysis, Migdal (ibid) and Remmer (1997: 35) both claim that Huntington's return to the state was not adopted until some years after he made the case.

Indeed, it was not until the 1970s that the statist (neo-institutional) paradigm grew to challenge the societalist paradigm which saw the state as passive. The statist argument, as characterized by Theda Skocpol (1985: 3), brought the state 'back in' by taking it to be an active agent: "Whether as an object of investigation or as something invoked to explain outcomes of interest, the state as an actor or an institution has been highlighted in an extraordinary outpouring of studies by scholars of diverse theoretical proclivities from all of the major disciplines." In this perception, the state was not simply acted upon, and did not only respond to the demands of societies, as in the 'black box' model of government. This reflected the 'neo-institutionalist' turn in political science, which

rejected the notion that institutions were passive. It became commonly accepted that institutions had agency. The statist contribution was to treat the state as a primary actor not only in the policy process, but in society generally, and on a scale not seen in the work of previous generations.

Migdal (2001: 4) notes that the debate between state and society had characterized scholarly work for the past two centuries. Migdal sees both the statist and societal literature as unsatisfying. Commenting on the statist literature, for instance, he notes that it has “led too often to a mystification of the state and its capabilities” (Migdal 1997: 211). Migdal advocates a synthesis of both the cultural and the institutions: “We cannot look at the bricks of the state without understanding the mortar” (ibid: 213). The state in this conception is not only an institution, but a process. This is critical because the state is not a single entity, dealing with everything in the same way. Moreover, it “continually morphs”, changing over time (Migdal 2001: 23). States and societies “are constantly *becoming*” (ibid: 50; emphasis in original).

The idea of the state as a process ties together the societal and the statist perspective. The state *is* an actor, but it is not a monolithic actor, and it changes over time. The fact that we refer to various governments by the name of prime ministers gives us some indication of that. We distinguish the Harper government from the Chrétien government. Why then should we theorize the state as having been the same in those two periods? Migdal's project is an ambitious one: he seeks to displace the above-cited Weberian notion of the state. His definition of what he calls the ‘state-in-society’ approach sees the state in two parts, the image and the practice (Migdal 2001: 16). Both image and practice have an internal and external dimension.

The image of the state is more or less homogeneous across the world. It is based on perception, both of citizens from within the state and other actors in the international realm. In a sense it is a myth, yet its impacts are very real, or at least can be. What is mythical is the image of the state as the same everywhere. Somalia is clearly not a state in the same way that France is, yet both are recognized by the United Nations. On the other side of the spectrum, there are quasi-states (Somaliland, Taiwan) which exercise internal control but are not states in the internationally recognized sense of the word. This is not a new idea: Jackson and Rosberg recognized this distinction in 1982. Commenting on the persistence of weak African states, they noted the difference between *de facto* and *de jure* sovereignty. Although this may now seem evident, it has taken a long time for theorists of the state to catch up. The internal component of the image of the state involves its perception as the ‘avatar’ of the people (Migdal 2001: 17). The democratic state is ‘of the people’ in a way that nothing else is.

The second half of Migdal's definition is the practice of the state. It is these practices which give the state's image meaning (Migdal 2001: 18). The strength or weakness of a state is dependent on its practices. Contrary to the image of the state, of which there is one accepted standard, “practice denotes multiple types of performance and, possibly,

some contention over what is *the* right way to act.” (Ibid: 19; emphasis in original) Here again the relevance of Jackson and Rosberg is evident: practice is *de facto* sovereignty. The practice of sovereignty is messier than the unified image of the state with which we are presented. For one thing, states are subject to competing domestic and international forces. The state is more constrained in the international than the domestic arena, but it would be a mistake to assume that states have no agency in how they deal with international pressure (ibid: 63). The final point of Migdal’s analysis is a crucial point: the state is not an “organic, undifferentiated actor” (ibid: 123). The state is a house divided. Various agencies within the state, and various actors within the same agency, may have competing goals. This is reflected in the practice of intergovernmental relations in Canada, as we shall see.

The pluralist/structural-functionalist position was either to ignore the state or to treat it as the background. Statists corrected this error by assuming that the state had agency. Migdal’s contribution is the idea of the state-in-society; that the state is indeed an actor, but not a monolithic and singular one. It is a fragmented actor operating under conditions of competing internal and external pressure. Moreover, the state is not simply institutions or policies. Rather, it is an ongoing and ever-shifting process. Today’s victor in the struggle to influence policy may be tomorrow’s loser. Let us now apply these various concepts to the literature on federalism in Canada.

Federalism in Canada

Federalism is one of the most studied facets of Canadian politics, which – given its fundamental influence on the country – is not surprising. From political economy to political culture, the causes and impacts of federalism have been well covered in the literature. This includes studies that focus on the societal bases of federalism (see Erk 2007 for a review). Just as important as the societal literature, at least in English Canadian political science, are institutionalist interpretations of federalism (see, notably, Cairns 1977). This, too, is not surprising. As Smith notes: “In English-Canada, political institutions have never been out of fashion in the study of Canadian politics” (Smith 2005a: 101). A key part of this institutional focus on Canadian federalism is the notion of ‘executive federalism’.

The concept of executive federalism was developed by Donald Smiley in an article in 1974 which looked at the ways in which the structures of federalism dealt with issues. Smiley argued that “government-to-government relations, what might be called ‘executive federalism’, play a central role” (Smiley 1974: 17). The point, for Smiley, was that intergovernmental relations in Canada occurred mainly through political executives (politicians and bureaucrats) rather than the legislature. The concept has since become an important part of the literature (Watts 1989; Brock 2003).

This is no mere procedural matter. Many of the most important political issues in Canadian history have been decided through executive federalism. The period of ‘mega-

constitutional' negotiations (1968-1992) was to a large extent characterized by the wrangling of intergovernmental executives. Many policy areas critical to the functioning of the state are subject to these negotiations. Intergovernmental relations are therefore critical to the functioning of the Canadian state.

Applying Migdal

The notion of executive federalism is not overly statist¹. Indeed, given its focus on negotiations between orders of government, and specifically between individuals, executive federalism as a concept satisfies one of Migdal's criteria: the state as a process. Intergovernmental relations are clearly a process inherent to the institution of federalism.

Absent from executive federalism, however, is society. The literature clearly notes that executive federalism is largely undemocratic (Cameron, Simeon 2002; Smiley 1979). The desire to reconcile democratic norms with the need for functional federalism has been a consistent theme for over 30 years. Yet as Skogstad (2009: 219) observes: "Canadian students of federalism have placed undue emphasis on intergovernmental dynamics – and at the summit level of first ministers – to the neglect of non-state actors."

Migdal's idea of 'state in society' gives us a way forward. Despite its focus on the process of federalism, executive federalism arguably focuses on state to the exclusion of society. Realizing that the state (including the provincial state) is not a monolith, and that we shouldn't place artificial barriers between state and society, opens up a set of questions for further research.

The first issue is the role of various actors in intergovernmental relations. This involves several components, beginning with the differing impacts of different government participants (recall Migdal's argument that the state is a house divided). There are existing manifestations of this phenomenon. Many intergovernmental agreements in Canada are signed between ministries. Some provinces (Québec, Alberta and Newfoundland and Labrador) have intergovernmental officials look over all agreements before they are signed, but many provinces do not. This can very easily lead to conflicts between government departments. The fact that the three above-mentioned provinces have such measures in place suggests a unity of action, but this must be considered in context: if the province were not an internally fragmented unit, these measures would not be necessary.

The second factor is the role of external actors. This can include individual citizens, but a more fruitful approach would be to look at the role of groups. Smith (2005b: 124) argues, regarding environmental policy, that the intergovernmental policy process is extremely complicated and involves many actors. This belies the impression of

¹ Although at times it has focused heavily on institutional constraints (see Simeon 2006).

executive federalism in much of the literature. There is a disconnection between the broader literature on executive federalism and the specific policy literature.

There is also the matter of asymmetry, both of power and of tactics. The fact that different actors come to the table with different degrees of power and influence is not a surprise. Simeon's (2006) classic account covers this quite well. However, asymmetry may extend further than simply power asymmetry. Different provinces (as well as the federal government) may have entirely different strategies for approaching executive federalism. These differences must be understood and explained beyond power relations.

In sum, there is a disjuncture in the literature on federalism in Canada. The well-understood notion of executive federalism presents a generic situation in which varied state actors interact in ways that exclude external actors. The specific policy literature points to the enormous complexity of policy-making in a federation. What is required, therefore, is an enriched version of executive federalism. Keeping Migdal's work in mind would be a good start, as it begins from the proposition that creating artificial barriers between state and society is unhelpful. It may well be the case that such barriers exist, but we should not assume they do without investigation.

If applied in a sustained program of research, Migdal's approach would ultimately give us a more empirically rich understanding of the process of federalism in Canada. It could give us a better understanding of differences between governmental approaches, of the differing influence of policy actors, and of the variety of ways external actors are brought to the table. It might also be able to bridge the link between the general understanding of federalism and the specific study of policy.

Conclusion

Since the Second World War, political science has gone through a set of changes in focus. When the notion of 'inevitable modernization' was dropped, early literature focused on societal explanations for differential development. The state was treated as the background, not as a participant. The neo-institutional turn of the 1970s brought the state as an actor back into the study of politics. In Canada, both society and particularly the state have been studied as they relate to federalism. However, the influential notion of 'executive federalism' is one which assumes that society is excluded from the practice of federalism in Canada, a fact that the specific policy literature does not bear out. Migdal's 'state in society' approach could give us a much richer understanding of executive federalism.

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